

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JAMES SEELEY, 03A1621,

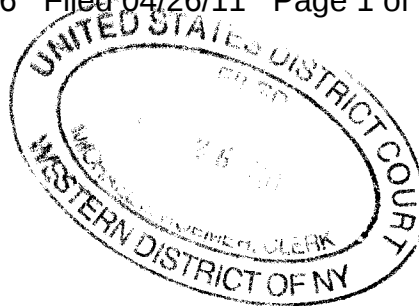
Plaintiff,

-v-

DR. COLLEEN DUELL, et al.,

Defendants.

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-PS-O-

DECISION AND ORDER  
10-CV-6570CJS

Based on the Court's Order dated March 21, 2011 (Docket No. 26), plaintiff's amended complaint (Docket No. 24) has been reviewed pursuant to the 28 U.S.C. §§ 1915(e) and 1915A criteria. Plaintiff's amended complaint may proceed forward at this time.

The Court notes that plaintiff names as a defendant "Nurse Timothy Doe." It is unclear if this is the defendant's actual name or an unidentified defendant. Plaintiff is advised that the statute of limitations for actions filed under 42 U.S.C. § 1983 is three years, *Owens v. Okure*, 488 U.S. 235, 251 (1989), and if Nurse Timothy Doe is an unidentified defendant, plaintiff will need to identify the individual through discovery and move to amend the caption to add him to this action within that time period.<sup>1</sup>

The Clerk of the Court is directed to cause the United States Marshal to serve copies of the Summons, Amended Complaint, and this Order upon defendants Jamison,

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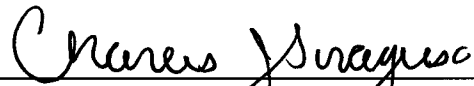
<sup>1</sup>"Plaintiffs, especially *pro se* incarcerated plaintiffs, should be given an opportunity to identify ... unknown defendants through discovery." *Brown v. Doe*, 1999 WL 893070, \* 2 (S.D.N.Y. October 18, 1999) (deferring defendants' motions to dismiss until they have provided the requisite discovery information and materials to the *pro se* prisoner litigant) (citing *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997) (district courts must assist *pro se* incarcerated litigants with their inquiry into the identities of unknown defendants)).

Diaz, Koenigsmann, and Doe<sup>2</sup> without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.

Pursuant to 42 U.S.C. § 1997e(g)(2), defendants are directed to answer the amended complaint.

SO ORDERED.

Dated: APR. 25, 2011  
Rochester, New York

  
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CHARLES J. SIRAGUSA  
United States District Judge

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<sup>2</sup> If Doe is an unidentified defendant, the plaintiff should notify the Clerk of the Court so that the summons for service is not sent to the Marshal's Office until the Doe defendant has been identified by the plaintiff.